

Executive Summary – Enforcement Matter – Case No. 48022
Oiltanking Houston, L.P.
RN100224740
Docket No. 2013-2175-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Oiltanking Houston Terminal, 15602A Jacintoport Boulevard, Houston, Harris County

Type of Operation:

Bulk chemical and hydrocarbon liquids storage site

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: April 25, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$18,688

Amount Deferred for Expedited Settlement: \$3,737

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$7,476

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$7,475

Name of SEP: Houston Regional Monitoring Corporation

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - High

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 8, 2013 through October 24, 2013

Date(s) of NOE(s): November 27, 2013

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Oiltanking Houston, L.P.
RN100224740
Docket No. 2013-2175-AIR-E

Violation Information

1. Failed to prepare and maintain an emission reduction plan [30 TEX. ADMIN. CODE § 118.5 and TEX. HEALTH & SAFETY CODE § 382.085(b)].
2. Failed to conduct quarterly visible emissions observations of all stationary vents. Specifically, visible emissions observations were not conducted for the emergency generators (Emission Point Numbers ("EPNs") EMERGGEN-1 and NFIREPUMP) at least once during each calendar quarter in which the generators were in operation [30 TEX. ADMIN. CODE § 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit ("FOP") No. O1043, Special Terms and Conditions ("STC") No. 3(A)(iv)(1)].
3. Failed to re-float a landed tank roof or begin the tank degassing process within 72 hours after an internal floating tank roof landing. Specifically, the degassing process began on October 7, 2013 at 10:56 a.m., over 72 hours after landing the roof of Tank 390-24 on October 3, 2013 at approximately 6:00 p.m. [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), New Source Review ("NSR") Permit Nos. 5631 and N054, Special Conditions No. 14, and FOP No. O1043, STC No. 13].
4. Failed to maintain records containing the information and data sufficient to demonstrate compliance with NSR Permit Nos. 5631 and N054. Specifically, from March 1, 2012 through June 18, 2012 and from June 1, 2013 through August 27, 2013, records demonstrating compliance with the minimum net heating value and maximum exit velocity for the flares (EPNs MLF-1 and MLF-2) were not maintained [30 TEX. ADMIN. CODE §§ 116.115(b)(2)(E) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), NSR Permit Nos. 5631 and N054, General Conditions No. 7, and FOP No. O1043, STC No. 13].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. By November 4, 2013, improved procedures for internal floating tank roof landings, and discussed them with personnel, to ensure compliance with tank roof landing requirements in NSR Permit Nos. 5631 and N054;
- b. By December 10, 2013, incorporated visible emissions observations of the emergency generators EPNs EMERGGEN-1 and NFIREPUMP into the documentation that is maintained on a monthly basis and implemented measures to conduct quarterly visible emissions observations for both emergency generators; and

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c. By December 17, 2013, prepared and began maintaining an emission reduction plan.

Technical Requirements:

1. The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)

2. The Order will also require the Respondent to:

a. Within 30 days, implement measures to ensure that records that demonstrate compliance with the flare minimum net heating value and maximum exit velocity requirements for EPNs MLF-1 and MLF-2 are maintained; and

b. Within 45 days, submit written certification to demonstrate compliance with Ordering Provision a.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Rachel Bekowies, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2608; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

Respondent: Clayton K. Curtis, Vice President of Regulatory Affairs, Oiltanking Houston, L.P., 15631 Jacintoport Boulevard, Houston, Texas 77015

Respondent's Attorney: Kelly D. Brown, Crain Caton and James, P.C., 1401 McKinney Street, Suite 1700, Houston, Texas 77010

Attachment A
Docket Number: 2013-2175-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Oiltanking Houston, L.P.
Penalty Amount:	Fourteen Thousand Nine Hundred Fifty-One Dollars (\$14,951)
SEP Offset Amount:	Seven Thousand Four Hundred Seventy-Five Dollars (\$7,475)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Houston Regional Monitoring Corporation
Project Name:	<i>Houston Area Air Monitoring Project</i>
Location of SEP:	Harris County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Houston Regional Monitoring Corporation** for the *Houston Area Air Monitoring Project* SEP. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to operate a network of ambient air monitoring stations that continuously measure and record concentrations of ambient air pollutants. This network includes the Houston Regional Monitor ("HRM") 617 Wallisville Road site, the HRM 615 Lynchburg Ferry site, and the HRM 3 Haden Road site. The Third-Party Administrator shall use the SEP Offset Amount to report data from these three existing sites in the Houston Regional Monitoring Corporation ambient air quality monitoring network in the Houston-Galveston Air Quality Control Region No. 216. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will provide TCEQ with near real-time access to high quality, short time resolution volatile organic compound, nitrogen oxide, ozone, and meteorological data sets that can be used to evaluate and track air pollution emission events as they occur, conduct source attribution studies, and to assess potential ambient community exposure to a limited number of hazardous air pollutants. Data from the monitors can be used with data from other monitors to provide critical information that can be used to evaluate the effectiveness of current and proposed emission control strategies aimed at achieving compliance with the 8-hr ozone National Ambient Air Quality Standards. It also provides a key source of information that is essential to furthering our overall understanding of those emission sources that contribute to ambient community exposure to toxic air contaminants. Because the information is available in near real-time, it can be used to provide both agency staff and industry personnel with time critical information to investigate emission events in a timely fashion. Another key benefit is the ability to measure the change in the ambient air concentration of the individual target species and quantify control measure effectiveness. Data from these monitors will be publicly accessible through the TCEQ's website and will be used in evaluating air quality in the area, in ozone forecasts, and ozone warnings. Thus, the public will directly benefit by having access to the data and the forecasting and notification tools which can be used for public awareness.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the contribution payable to **Houston Regional Monitoring Corporation SEP** and shall mail the contribution with a copy of the Agreed Order to:

Oiltanking Houston, L.P.
Agreed Order - Attachment A

Houston Regional Monitoring Corporation
c/o Christopher B. Amandes
Morgan, Lewis, & Bockius, LLP
1000 Louisiana, Suite 4000
Houston, Texas 77002

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount due to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent, must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

TCEQ	DATES	Assigned	9-Dec-2013	Screening	11-Dec-2013	EPA Due	
	PCW		10-Mar-2014				

RESPONDENT/FACILITY INFORMATION			
Respondent	Oiltanking Houston, L.P.		
Reg. Ent. Ref. No.	RN100224740		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	48022	No. of Violations	4
Docket No.	2013-2175-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Rachel Bekowies
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum		\$0	Maximum
			\$25,000

Penalty Calculation Section			
TOTAL BASE PENALTY (Sum of violation base penalties)			Subtotal 1
			\$14,750
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>			
Compliance History		33.0% Enhancement	Subtotals 2, 3, & 7
			\$4,867
Notes	Enhancement for two NOVs with similar violations, three NOVs with dissimilar violations, and one agreed order with denial of liability. Reduction for one Notice of Intent to conduct an audit and one Disclosure of Violations.		
Culpability	No	0.0% Enhancement	Subtotal 4
			\$0
Notes	The Respondent does not meet the culpability criteria.		
Good Faith Effort to Comply Total Adjustments			Subtotal 5
			\$2,012
Economic Benefit		0.0% Enhancement*	Subtotal 6
			\$0
Total EB Amounts \$1,191 Approx. Cost of Compliance \$7,000		<small>*Capped at the Total EB \$ Amount</small>	
SUM OF SUBTOTALS 1-7			Final Subtotal
			\$17,605
OTHER FACTORS AS JUSTICE MAY REQUIRE		6.2%	Adjustment
			\$1,083
Notes	Recommended enhancement to capture the avoided cost of compliance associated with Violation No. 2.		
			Final Penalty Amount
			\$18,688
STATUTORY LIMIT ADJUSTMENT			Final Assessed Penalty
			\$18,688
DEFERRAL		20.0% Reduction	Adjustment
			-\$3,737
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>			
Notes	Deferral offered for expedited settlement.		
PAYABLE PENALTY			\$14,951

Screening Date 11-Dec-2013

Docket No. 2013-2175-AIR-E

PCW

Respondent Oiltanking Houston, L.P.

Policy Revision 3 (September 2011)

Case ID No. 48022

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100224740

Media [Statute] Air

Enf. Coordinator Rachel Bekowies

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	2	10%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	1	-1%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	1	-2%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 33%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for two NOVs with similar violations, three NOVs with dissimilar violations, and one agreed order with denial of liability. Reduction for one Notice of Intent to conduct an audit and one Disclosure of Violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 33%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 33%

Screening Date 11-Dec-2013

Docket No. 2013-2175-AIR-E

PCW

Respondent Oiltanking Houston, L.P.

Policy Revision 3 (September 2011)

Case ID No. 48022

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100224740

Media [Statute] Air

Enf. Coordinator Rachel Bekowies

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 118.5 and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to prepare and maintain an emission reduction plan.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

64 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,750

One single event is recommended for the one plan that was not prepared.

Good Faith Efforts to Comply

10.0% Reduction

\$375

	Before NOV	NOV to EDPRP/Settlement Offer
	Extraordinary	
Ordinary		x
N/A		(mark with x)

Notes

The Respondent completed corrective actions by December 17, 2013, after the November 27, 2013 Notice of Enforcement ("NOE").

Violation Subtotal \$3,375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$19

Violation Final Penalty Total \$4,896

This violation Final Assessed Penalty (adjusted for limits) \$4,896

Economic Benefit Worksheet

Respondent Oiltanking Houston, L.P.
 Case ID No. 48022
 Reg. Ent. Reference No. RN100224740
 Media Air
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	8-Oct-2013	17-Dec-2013	0.19	\$19	n/a	\$19

Notes for DELAYED costs

Estimated cost to prepare and begin maintaining an emission reduction plan. The Date Required is the first date of the investigation. The Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$19

Screening Date 11-Dec-2013

Docket No. 2013-2175-AIR-E

PCW

Respondent Oiltanking Houston, L.P.

Policy Revision 3 (September 2011)

Case ID No. 48022

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100224740

Media [Statute] Air

Enf. Coordinator Rachel Bekowies

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 122.143(4), Tex. Health & Safety Code § 382.085(b), and Federal Operating Permit ("FOP") No. O1043, Special Terms and Conditions ("STC") No. 3(A)(iv)(1)

Violation Description

Failed to conduct quarterly visible emissions observations of all stationary vents. Specifically, visible emissions observations were not conducted for the emergency generators (Emission Point Numbers ("EPNs") EMERGGEN-1 and NFIREPUMP) at least once during each calendar quarter in which the generators were in operation.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 7.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,250

\$1,750

Violation Events

Number of Violation Events 4

273 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$7,000

Four single events are recommended based on the four quarterly observations that were not conducted.

Good Faith Efforts to Comply

10.0% Reduction

\$700

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent completed corrective actions by December 10, 2013, after the November 27, 2013 NOE.

Violation Subtotal \$6,300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,130

Violation Final Penalty Total \$9,140

This violation Final Assessed Penalty (adjusted for limits) \$9,140

Economic Benefit Worksheet

Respondent Oiltanking Houston, L.P.
Case ID No. 48022
Reg. Ent. Reference No. RN100224740
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,000	31-Dec-2012	10-Dec-2013	0.94	\$47	n/a	\$47

Notes for DELAYED costs

Estimated cost to incorporate visible emissions observations of the emergency generators into the documentation that is maintained on a monthly basis and to implement measures to conduct quarterly visible emissions observations for both emergency generators. The Date Required is the date the first observation was due. The Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$1,000	31-Dec-2012	30-Sep-2013	1.67	\$83	\$1,000	\$1,083

Notes for AVOIDED costs

Avoided cost for conducting quarterly observations (\$250 per observation x 4 quarters). The Date Required is the date the first observation was due. The Final Date is the date the last observation was due.

Approx. Cost of Compliance

\$2,000

TOTAL

\$1,130

Screening Date 11-Dec-2013

Docket No. 2013-2175-AIR-E

PCW

Respondent Oiltanking Houston, L.P.

Policy Revision 3 (September 2011)

Case ID No. 48022

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100224740

Media [Statute] Air

Enf. Coordinator Rachel Bekowies

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), New Source Review ("NSR") Permit Nos. 5631 and N054, Special Conditions No. 14, and FOP No. O1043, STC No. 13

Violation Description

Failed to re-float a landed tank roof or begin the tank degassing process within 72 hours after an internal floating tank roof landing. Specifically, the degassing process began on October 7, 2013 at 10:56 a.m., over 72 hours after landing the roof of Tank 390-24 on October 3, 2013 at approximately 6:00 p.m.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,750

One quarterly event is recommended for the tank roof that was landed approximately 17 hours longer than the 72 hour maximum requirement.

Good Faith Efforts to Comply

25.0% Reduction

\$937

	Before NOV		NOV to EDPRP/Settlement Offer
	Extraordinary	Ordinary	
		x	
N/A			(mark with x)

Notes The Respondent completed corrective actions by November 4, 2013, prior to the November 27, 2013 NOE.

Violation Subtotal \$2,813

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$4,300

This violation Final Assessed Penalty (adjusted for limits) \$4,300

Economic Benefit Worksheet

Respondent Oiltanking Houston, L.P.
Case ID No. 48022
Reg. Ent. Reference No. RN100224740
Media Air
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	6-Oct-2013	4-Nov-2013	0.08	\$8	n/a	\$8

Notes for DELAYED costs

Estimated cost to improve procedures for internal floating tank roof landings and discuss them with personnel. The Date Required is the date that the degassing process should have started. The Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$8

Screening Date 11-Dec-2013

Docket No. 2013-2175-AIR-E

PCW

Respondent Oiltanking Houston, L.P.

Policy Revision 3 (September 2011)

Case ID No. 48022

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100224740

Media [Statute] Air

Enf. Coordinator Rachel Bekowies

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(b)(2)(E) and 122.143(4), Tex. Health & Safety Code § 382.085(b), NSR Permit Nos. 5631 and N054, General Conditions No. 7, and FOP No. O1043, STC No. 13

Violation Description

Failed to maintain records containing the information and data sufficient to demonstrate compliance with NSR Permit Nos. 5631 and N054. Specifically, from March 1, 2012 through June 18, 2012 and from June 1, 2013 through August 27, 2013, records demonstrating compliance with the minimum net heating value and maximum exit velocity for the flares (EPNs MLF-1 and MLF-2) were not maintained.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1.0%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1

64 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$250

One single event is recommended for the incomplete records.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$33

Violation Final Penalty Total \$353

This violation Final Assessed Penalty (adjusted for limits) \$353

Economic Benefit Worksheet

Respondent Oiltanking Houston, L.P.
Case ID No. 48022
Reg. Ent. Reference No. RN100224740
Media Air
Violation No. 4

Percent Interest 5.0
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$1,000	8-Oct-2013	8-Jun-2014	0.67	\$33	n/a	\$33
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to implement measures to ensure that records that demonstrate compliance with the flare minimum net heating value and maximum exit velocity requirements for EPNs MLF-1 and MLF-2 are maintained. The Date Required is the first date of the investigation. The Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$33

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN600129795, RN100224740, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN600129795, Oiltanking Houston, L.P. **Classification:** SATISFACTORY **Rating:** 0.80

Regulated Entity: RN100224740, OILTANKING HOUSTON TERMINAL **Classification:** HIGH **Rating:** 0.00

Complexity Points: 25

Repeat Violator: NO

CH Group: 14 - Other

Location: 15602A JACINTO PORT BOULEVARD HOUSTON, TEXAS 77015-6533, HARRIS COUNTY

TCEQ Region: REGION 12 - HOUSTON

ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER HG0531D

INDUSTRIAL AND HAZARDOUS WASTE EPA ID

TXD074189549

WASTEWATER EPA ID TX0132195

AIR NEW SOURCE PERMITS PERMIT 51287

AIR NEW SOURCE PERMITS REGISTRATION 25887

AIR NEW SOURCE PERMITS REGISTRATION 35124

AIR NEW SOURCE PERMITS REGISTRATION 44160

AIR NEW SOURCE PERMITS REGISTRATION 26909

AIR NEW SOURCE PERMITS AFS NUM 4820100277

AIR NEW SOURCE PERMITS REGISTRATION 27189

AIR NEW SOURCE PERMITS EPA PERMIT N054

AIR NEW SOURCE PERMITS REGISTRATION 55908

AIR NEW SOURCE PERMITS REGISTRATION 73860

AIR NEW SOURCE PERMITS REGISTRATION 77076

AIR NEW SOURCE PERMITS REGISTRATION 78592

AIR NEW SOURCE PERMITS REGISTRATION 81089

AIR NEW SOURCE PERMITS PERMIT 87492

AIR NEW SOURCE PERMITS REGISTRATION 51287

AIR NEW SOURCE PERMITS REGISTRATION 105067

AIR NEW SOURCE PERMITS REGISTRATION 94991

AIR NEW SOURCE PERMITS REGISTRATION 99145

AIR NEW SOURCE PERMITS REGISTRATION 114775

AIR NEW SOURCE PERMITS REGISTRATION 105750

AIR NEW SOURCE PERMITS REGISTRATION 109320

POLLUTION PREVENTION PLANNING ID NUMBER

P01323

ON SITE SEWAGE FACILITY PERMIT 1010911

ON SITE SEWAGE FACILITY PERMIT 1010312

AIR OPERATING PERMITS PERMIT 1043

INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE

REGISTRATION # (SWR) 31952

WASTEWATER PERMIT WQ0004898000

AIR NEW SOURCE PERMITS REGISTRATION 52653

AIR NEW SOURCE PERMITS REGISTRATION 55701

AIR NEW SOURCE PERMITS REGISTRATION 41029

AIR NEW SOURCE PERMITS REGISTRATION 50048

AIR NEW SOURCE PERMITS ACCOUNT NUMBER HG0531D

AIR NEW SOURCE PERMITS PERMIT 5631

AIR NEW SOURCE PERMITS REGISTRATION 70963

AIR NEW SOURCE PERMITS REGISTRATION 71166

AIR NEW SOURCE PERMITS REGISTRATION 51383

AIR NEW SOURCE PERMITS REGISTRATION 76993

AIR NEW SOURCE PERMITS REGISTRATION 77421

AIR NEW SOURCE PERMITS REGISTRATION 80156

AIR NEW SOURCE PERMITS REGISTRATION 83508

AIR NEW SOURCE PERMITS REGISTRATION 86536

AIR NEW SOURCE PERMITS REGISTRATION 86699

AIR NEW SOURCE PERMITS REGISTRATION 92912

AIR NEW SOURCE PERMITS REGISTRATION 95750

AIR NEW SOURCE PERMITS REGISTRATION 96611

AIR NEW SOURCE PERMITS REGISTRATION 109703

AIR NEW SOURCE PERMITS REGISTRATION 113313

AIR EMISSIONS INVENTORY ACCOUNT NUMBER

HG0531D

IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION

(SWR) 31952

ON SITE SEWAGE FACILITY PERMIT 1010912

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: December 06, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: December 06, 2008 to December 06, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Rachel Bekowies

Phone: (512) 239-2608

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 06/08/2013 ADMINORDER 2012-2548-IWD-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov:Effl. Limit. & Monit. Req. No. 1 PERMIT
Description: Failed to comply with permitted effluent limits.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	December 29, 2008	(709177)
Item 2	July 17, 2009	(680038)
Item 3	August 07, 2009	(749571)
Item 4	August 18, 2010	(802418)
Item 5	October 27, 2010	(866617)
Item 6	December 02, 2011	(970381)
Item 7	December 19, 2011	(958484)
Item 8	June 08, 2012	(958816)
Item 9	September 18, 2012	(1040353)
Item 10	October 15, 2012	(1071072)
Item 11	November 26, 2012	(1071073)
Item 12	December 21, 2012	(1046369)
Item 13	January 16, 2013	(1083824)
Item 14	June 20, 2013	(1109031)
Item 15	August 20, 2013	(1127295)
Item 16	September 25, 2013	(1131817)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- 1 Date: 01/31/2013 (1083823) CN600129795
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
- 2 Date: 02/28/2013 (1091640) CN600129795
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
- 3 Date: 06/30/2013 (1119555) CN600129795
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

- 4 Date: 07/09/2013 (1087460) CN600129795
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 106, SubChapter A 106.6(c)
5C THSC Chapter 382 382.085(b)
Description: Failure to prevent unauthorized emissions. Failure to prevent the overfilling of Tank R8-2.
- 5 Date: 11/27/2013 (1116373) CN600129795
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
30 TAC Chapter 122, SubChapter B 122.143(4)
5C THSC Chapter 382 382.085(b)
Special Condition 3A PERMIT
Special Term and Condition 13 OP
Description: Failure to maintain the flare net heating value at greater than 300 BTU/scf [Category C4 violation]

F. Environmental audits:

- Notice of Intent Date: 03/15/2010 (798580)
Disclosure Date: 09/24/2010
Viol. Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
30 TAC Chapter 116, SubChapter B 116.111
30 TAC Chapter 116, SubChapter G 116.715
Rqmt Prov: PERMIT 05631
OP SC 13
Description: Failed to demonstrate continuous compliance with flare heating value and velocity limits established in 40 CFR 60.18.
Viol. Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter A 101.20
30 TAC Chapter 122, SubChapter B 122.145(2)
30 TAC Chapter 122, SubChapter B 122.146
40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.7(a)(3)
Rqmt Prov: OP SC 5
Description: Failed to submit notification of initial dates of operation pursuant to NSPS Subpart Dc, and failed to include the violation in the Title V deviation reports.
Viol. Classification: Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
30 TAC Chapter 116, SubChapter B 116.111
30 TAC Chapter 116, SubChapter G 116.716(c)
30 TAC Chapter 122, SubChapter B 122.145(2)
30 TAC Chapter 122, SubChapter B 122.146
Description: Failed to adjust flexible permit caps downward to reflect that Engines E-1 and E-2 and Heater H-1 were never constructed, and this violation was not included in the Title V deviation reports.
Viol. Classification: Minor
Citation: 30 TAC Chapter 101, SubChapter A 101.10
30 TAC Chapter 106, SubChapter T 106.454
30 TAC Chapter 115, SubChapter E 115.412
30 TAC Chapter 115, SubChapter E 115.413
30 TAC Chapter 115, SubChapter E 115.415
30 TAC Chapter 115, SubChapter E 115.416
30 TAC Chapter 115, SubChapter E 115.417
30 TAC Chapter 115, SubChapter E 115.419
30 TAC Chapter 116, SubChapter B 116.110(a)
30 TAC Chapter 116, SubChapter B 116.111
30 TAC Chapter 122, SubChapter B 122.132(e)
30 TAC Chapter 122, SubChapter B 122.145(2)
Description: Failed to appropriately authorize, control and report emissions from a cold solvent degreaser. (sample bunker bottle washing station).
Viol. Classification: Minor
Citation:

30 TAC Chapter 116, SubChapter B 116.110(a)
30 TAC Chapter 116, SubChapter B 116.111
30 TAC Chapter 116, SubChapter G 116.711(10)
30 TAC Chapter 122, SubChapter B 122.145(2)
30 TAC Chapter 122, SubChapter B 122.146

Description: Failed to consider a tenant with ground lease as an off site receptor in an ambient air impacts analysis.

Viol. Classification: Minor

Citation: 30 TAC Chapter 116, SubChapter B 116.110(a)
30 TAC Chapter 116, SubChapter B 116.111
30 TAC Chapter 116, SubChapter G 116.715

Description: Failed to maintain continuous compliance with maximum tip velocity requirements (below 60 ft./sec.).

Viol. Classification: Minor

Citation: 30 TAC Chapter 101, SubChapter A 101.20
30 TAC Chapter 116, SubChapter G 116.715
30 TAC Chapter 122, SubChapter B 122.145(2)
30 TAC Chapter 122, SubChapter B 122.146
40 CFR Chapter 60, SubChapter C, PT 60, SubPT Kb 60.113b(a)(5)

Description: Failed to provide required written notice at least 7 days prior to tank re-filling.

Viol. Classification: Minor

Citation: 30 TAC Chapter 106, SubChapter U 106.478
30 TAC Chapter 106, SubChapter A 106.6(b)
30 TAC Chapter 116, SubChapter B 116.110(a)
30 TAC Chapter 116, SubChapter G 116.715
30 TAC Chapter 122, SubChapter B 122.145(2)
30 TAC Chapter 122, SubChapter B 122.146

Description: Failed to consider tenant with ground lease as "off site" for purposes of the minimum distance requirement.

Viol. Classification: Major

Citation: TWC Chapter 26 26.039
TWC Chapter 26 26.121
30 TAC Chapter 327 327.3
30 TAC Chapter 327 327.5
30 TAC Chapter 335, SubChapter A 335.4
30 TAC Chapter 335, SubChapter A 335.6
30 TAC Chapter 335, SubChapter A 335.8

Description: Failed to prevent a release of MTBE that resulted in soil and groundwater concentrations that exceeded relevant protective concentration levels.

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
OILTANKING HOUSTON, L.P.
RN100224740**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2013-2175-AIR-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Oiltanking Houston, L.P. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Kelly D. Brown of the law firm of Crain, Caton & James, together stipulate that:

1. The Respondent owns and operates a bulk chemical and hydrocarbon liquids storage site at 15602A Jacintoport Boulevard in Houston, Harris County, Texas (the "Site").
2. The Site consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about December 2, 2013.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Eighteen Thousand Six Hundred Eighty-Eight Dollars (\$18,688) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Seven Thousand Four

Hundred Seventy-Six Dollars (\$7,476) of the administrative penalty and Three Thousand Seven Hundred Thirty-Seven Dollars (\$3,737) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Seven Thousand Four Hundred Seventy-Five Dollars (\$7,475) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:
 - a. By November 4, 2013, improved procedures for internal floating tank roof landings, and discussed them with personnel, to ensure compliance with tank roof landing requirements in New Source Review ("NSR") Permit Nos. 5631 and N054;
 - b. By December 10, 2013, incorporated visible emissions observations of the emergency generators (Emission Point Numbers ("EPNs") EMERGGEN-1 and NFIREFUMP) into the documentation that is maintained on a monthly basis and implemented measures to conduct quarterly visible emissions observations for both emergency generators; and
 - c. By December 17, 2013, prepared and began maintaining an emission reduction plan.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Site, the Respondent is alleged to have:

1. Failed to prepare and maintain an emission reduction plan, in violation of 30 TEX. ADMIN. CODE § 118.5 and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted from October 8, 2013 through October 24, 2013.
2. Failed to conduct quarterly visible emissions observations of all stationary vents, in violation of 30 TEX. ADMIN. CODE § 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit ("FOP") No. O1043, Special Terms and Conditions ("STC") No. 3(A)(iv)(1), as documented during an investigation conducted from October 8, 2013 through October 24, 2013. Specifically, visible emissions observations were not conducted for the emergency generators (EPNs EMERGGEN-1 and NFIREPUMP) at least once during each calendar quarter in which the generators were in operation.
3. Failed to re-float a landed tank roof or begin the tank degassing process within 72 hours after an internal floating tank roof landing, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), NSR Permit Nos. 5631 and No54, Special Conditions No. 14, and FOP No. O1043, STC No. 13, as documented during an investigation conducted from October 8, 2013 through October 24, 2013. Specifically, the degassing process began on October 7, 2013 at 10:56 a.m., over 72 hours after landing the roof of Tank 390-24 on October 3, 2013 at approximately 6:00 p.m.
4. Failed to maintain records containing the information and data sufficient to demonstrate compliance with NSR Permit Nos. 5631 and No54, in violation of 30 TEX. ADMIN. CODE §§ 116.115(b)(2)(E) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), NSR Permit Nos. 5631 and No54, General Conditions No. 7, and FOP No. O1043, STC No. 13, as documented during an investigation conducted from October 8, 2013 through October 24, 2013. Specifically, from March 1, 2012 through June 18, 2012 and from June 1, 2013 through August 27, 2013, records demonstrating compliance with the minimum net heating value and maximum exit velocity for the flares (EPNs MLF-1 and MLF-2) were not maintained.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to

"TCEQ" and shall be sent with the notation "Re: Oiltanking Houston, L.P., Docket No. 2013-2175-AIR-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Seven Thousand Four Hundred Seventy-Five Dollars (\$7,475) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, implement measures to ensure that records that demonstrate compliance with the flare minimum net heating value and maximum exit velocity requirements for EPNs MLF-1 and MLF-2 are maintained, in accordance with NSR Permit Nos. 5631 and N054; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

7/7/14
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

4/1/14
Date

Clerk Cook
Name (Printed or typed)
Authorized Representative of
Oiltanking Houston, L.P.

V. P REGULATORY AFFAIRS
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2013-2175-AIR-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Oiltanking Houston, L.P.
Penalty Amount:	Fourteen Thousand Nine Hundred Fifty-One Dollars (\$14,951)
SEP Offset Amount:	Seven Thousand Four Hundred Seventy-Five Dollars (\$7,475)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Houston Regional Monitoring Corporation
Project Name:	<i>Houston Area Air Monitoring Project</i>
Location of SEP:	Harris County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Houston Regional Monitoring Corporation** for the *Houston Area Air Monitoring Project* SEP. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used to operate a network of ambient air monitoring stations that continuously measure and record concentrations of ambient air pollutants. This network includes the Houston Regional Monitor ("HRM") 617 Wallisville Road site, the HRM 615 Lynchburg Ferry site, and the HRM 3 Haden Road site. The Third-Party Administrator shall use the SEP Offset Amount to report data from these three existing sites in the Houston Regional Monitoring Corporation ambient air quality monitoring network in the Houston-Galveston Air Quality Control Region No. 216. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This SEP will provide TCEQ with near real-time access to high quality, short time resolution volatile organic compound, nitrogen oxide, ozone, and meteorological data sets that can be used to evaluate and track air pollution emission events as they occur, conduct source attribution studies, and to assess potential ambient community exposure to a limited number of hazardous air pollutants. Data from the monitors can be used with data from other monitors to provide critical information that can be used to evaluate the effectiveness of current and proposed emission control strategies aimed at achieving compliance with the 8-hr ozone National Ambient Air Quality Standards. It also provides a key source of information that is essential to furthering our overall understanding of those emission sources that contribute to ambient community exposure to toxic air contaminants. Because the information is available in near real-time, it can be used to provide both agency staff and industry personnel with time critical information to investigate emission events in a timely fashion. Another key benefit is the ability to measure the change in the ambient air concentration of the individual target species and quantify control measure effectiveness. Data from these monitors will be publicly accessible through the TCEQ's website and will be used in evaluating air quality in the area, in ozone forecasts, and ozone warnings. Thus, the public will directly benefit by having access to the data and the forecasting and notification tools which can be used for public awareness.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the contribution payable to **Houston Regional Monitoring Corporation SEP** and shall mail the contribution with a copy of the Agreed Order to:

Oiltanking Houston, L.P.
Agreed Order - Attachment A

Houston Regional Monitoring Corporation
c/o Christopher B. Amandes
Morgan, Lewis, & Bockius, LLP
1000 Louisiana, Suite 4000
Houston, Texas 77002

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount due to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality
Enforcement Division
Attention: SEP Coordinator, MC 219
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality;" and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent, must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.